



No. 57

March 8, 2004

## S. Con. Res. 95 – Concurrent Budget Resolution for Fiscal Year 2005

Calendar No. 437

*Reported on March 5, 2004 as an original concurrent resolution by the Senate Committee on the Budget, by a vote of 12 to 10; Senate Print 108-365. [On March 10, the House of Representatives' Budget Committee is scheduled to mark up a separate concurrent resolution.]*

### NOTEWORTHY

- **As approved by the Senate Budget Committee, S. Con. Res. 95 sets total spending in fiscal year 2005 at \$2.363 trillion and total revenues at \$2.025 trillion.**
- **Deficit Reduction:** As approved by the Budget Committee, S. Con. Res. 95 would reduce the projected deficit from \$477 billion in 2004 to \$338 billion in 2005. Notably, the budget resolution achieves the President's goal of cutting the deficit in half by 2006 as a percentage of gross domestic product (GDP), and by 2007 in nominal terms.
- **Discretionary Spending:** As approved by the Budget Committee, S. Con. Res. 95 provides \$814 billion in discretionary budget authority for FY 2005, which is consistent with the discretionary cap set forth in the FY 2004 Budget Resolution. Within this allocation, most spending programs are frozen at FY 2004 levels, except for high-priority programs including defense, homeland security, education, and veterans.
- **Mandatory Spending:** As approved by the Budget Committee, S. Con. Res 95 includes a \$5.7 billion net reduction in mandatory spending over five years.
- **Preventing Tax Increases:** As approved by the Budget Committee, S. Con. Res. 95 extends personal tax relief that is set to expire at the end of 2004 including \$1,000 per-child tax credit, 10-percent income tax bracket expansion, and marriage penalty relief. The Finance Committee is directed to produce a reconciliation bill for this purpose.

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## HIGHLIGHTS

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### Reconciliation

- As approved by the Budget Committee, S. Con. Res. 95 instructs the Finance Committee to provide a reduction in revenues that would allow an extension of personal tax relief that is set to expire at the end of 2004, including the \$1,000 per-child tax credit, 10-percent income tax bracket expansion, and marriage penalty relief. The Finance Committee is instructed to report legislation by September 30, 2004 that would reduce revenues by \$12.311 billion in FY 2005, and by \$80.642 billion between FY 2005 and 2009.
- As approved by the Budget Committee, S. Con. Res. 95 instructs the Senate Committee on Finance to increase the statutory debt limit by \$664.028 billion. The Finance Committee is instructed to report such legislation by September 30, 2004.
- As approved by the Budget Committee, S. Con. Res. 95 instructs the Senate Committee on Finance to reduce outlays from mandatory spending by \$2.888 billion in FY 2005, and \$3.423 billion for FY 2005 through FY 2009. The Finance Committee is instructed to report such legislation by September 30, 2004.

### Spending

#### National Defense (Function 050)

- For national defense funding, S. Con. Res. 95 assumes \$413.9 billion in discretionary budget authority and \$441.7 billion total outlays for 2005. This represents an increase of \$19.9 billion (+5.1 percent) in budget authority when not including \$65.1 billion in budget authority from 2004 emergency supplemental funds. When factoring in the supplemental funds in the 2004 figures, this year's figure represents a decrease of \$10.2 billion in outlays (-2.3 percent).
- The resolution assumes a \$30 billion reserve in supplemental appropriations for costs associated with ongoing military operations in Iraq and Afghanistan.

#### International Affairs (Function 150)

- For international affairs in 2005, S. Con. Res. 95 assumes \$30.5 in discretionary budget authority and \$36.8 billion in outlays. This represents an increase of \$3.6 billion (+13.5 percent) in budget authority when not including \$21.8 billion in budget authority from

2004 emergency supplemental funds for international activities<sup>1</sup>. When factoring in the supplemental funds in the 2004 figures, the resolution represents a decrease of \$2.6 billion in outlays (-7.7 percent).

- The resolution fully funds all but two programs in the President's budget request: Millennium Challenge Corporation (MCC) and the Emergency Fund for Complex Foreign Crises.
- The resolution reduces the President's \$2.5 billion request for the MCC for FY 2005 to \$1.5 billion, allowing for more measured program start-up, and time to work out details and procedures so that previously provided funding may be disbursed.
- The resolution assumes full funding for the following programs: \$1.450 billion for the Global AIDS Initiative; \$1.42 billion for Child Survival and Disease Programs; \$401 million for the Peace Corps; \$550 million for Assistance for the Independent States of the Former Soviet Union; \$415 million for Nonproliferation, Antiterrorism, Demining, and Related Programs; \$4,958 million for the Foreign Military Financing Program; \$2,520 million for the Economic Support Fund; \$4,285 million for Diplomatic and Consular Programs; \$1,539 million for Embassy Security, Construction, and Maintenance; \$650 million for Contributions for International Peacekeeping Activities; \$1,194 million for Contributions for International Organizations; \$1,034 million for Foreign Information and Exchange Activities, and \$410 million for the Peace Corps.

### **General Science, Space, and Technology (Function 250)**

- This function includes the National Aeronautics and Space Administration (NASA) civilian space program (this excludes NASA aeronautics funding that falls in function 400) and basic research programs of the National Science Foundation (NSF) and Department of Energy (DOE) Office of Science.
- For this function in 2005, S. Con. Res. 95 assumes discretionary spending in this function will total \$23.6 billion in budget authority and \$23 billion in outlays. This represents an increase of \$310 million in budget authority and \$820 million in outlays from the 2004 level.
- The resolution assumes \$15.6 billion (+1.4 percent) for NASA and further assumes fully funding the President's NASA request in 2006 and beyond.
- The resolution does not assume the President's request to cut funding for the Department of Energy Office of Science, and instead provides an additional \$38 million (+1.1 percent) above the 2004 level.

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<sup>1</sup>Of the \$21.8 billion, \$19.4 billion went to reconstruction activities in Iraq.

## **Energy (Function 270)**

- For energy in 2005, S. Con. Res. 95 assumes \$3.7 billion in discretionary budget authority and \$3.8 billion in outlays.<sup>2</sup> This is an increase of \$100 million in budget authority and \$500 million in outlays over the 2004 level.
- The resolution assumes \$1 billion for non-defense Environmental Management, which represents an \$86-million increase over 2004.
- The resolution fully funds the President's \$7 billion Defense Environment Management request.<sup>3</sup>
- The resolution fully funds the President's \$834 million request for energy supply, which represents an increase of \$81 million above 2004.
- The resolution does not assume the President's request to cut funding for Fossil Energy Research and Development, and instead provides \$673 million, which is the same as the 2004 level.

## **Natural Resources and Environment (Function 300)**

- For this function in 2005, S. Con. Res. 95 assumes \$30 billion in discretionary budget authority and \$29.2 billion in outlays. This is a decrease of \$0.3 billion in discretionary budget authority and \$0.5 billion in outlays from the 2004 level.
- The resolution assumes \$8.6 billion for the Environmental Protection Agency. Within these funds, \$4 billion is assumed for State and Tribal Assistance Grants and \$1.4 billion for Superfund. The Superfund assumption meets the President's request, and represents an increase of \$138 million (+11 percent).
- The resolution fully funds the President's request by assuming \$907 million for fire suppression within the Forest Service and the Department of Interior, which is a \$117 million increase over 2004.<sup>4</sup>

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<sup>2</sup>See Reserve Fund section of this paper for a provision that provides \$261 million in FY 2005 for an energy bill covering renewable energy, oil and gas, coal, electricity, energy tax incentives, and ethanol (p. 10-11).

<sup>3</sup>The resolution does not assume that any of this funding will be delayed due to legal uncertainties related to high-level nuclear waste.

<sup>4</sup>See Reserve Fund section of this paper for a provision that allows for additional fire suppression funding (p.10-11).

- The resolution does not assume the President's request to cut the Corps of Engineers funding and instead assumes \$4.4 billion, which is the same as the 2004 level.
- The resolution does not assume the President's request to cut the State and Private Forestry funding, and instead assumes \$429 million, which is the same as the 2004 level.
- The resolution assumes a technical correction to the baseline that will allow technical assistance for the Conservation Reserve Program and the Wetlands Reserve Program to come out of mandatory Agriculture funds as the 2002 Farm Bill intended.<sup>5</sup>

### **Agriculture (Section 350)**

- For agriculture in 2005, S. Con. Res. 95 assumes \$5.4 billion in discretionary budget authority and \$5.6 billion in outlays. This represents a decrease of \$0.2 billion in budget authority, and \$0.1 billion in outlays from the 2004 level.
- The resolution assumes an increase of \$294 million (+ 94 percent) in budget authority for homeland security-related activities. Included in this assumption is a \$115 million increase for the Agriculture Research Service, which should accelerate the completion of the animal research lab (in Ames, Iowa).
- The resolution assumes an increase of \$85 million over 2004 for activities responding to the discovery of Bovine Spongiform Encephalopathy<sup>6</sup> (BSE) in the U.S. and Canada. Within these funds, \$50 million is assumed for the Animal Plant Health Inspection Service and \$35 million is assumed for the Food Safety Inspection Service, which appears in function 550.
- The resolution assumes \$105 million for P.L. 480 Title I funding, which is equal to the 2004 level, but \$15 million above the President's request.

### **Commerce and Housing Credit (Function 370)**

- This function includes discretionary housing programs, such as subsidies for single and multifamily housing in rural areas and mortgage insurance provided by the Federal Housing Administration; net spending by the Postal Service; discretionary funding for commerce programs, such as international trade and exports, science and technology, the census, and small business; and mandatory spending for deposit insurance activities related to banks, thrifts, and credit unions.

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<sup>5</sup>See Senator Grassley's Amendment from the committee markup (p.15).

<sup>6</sup>Also known as "Mad Cow Disease."

- For this function in 2005, S. Con. Res. 95 assumes -\$1.9 billion in discretionary budget authority and -\$0.6 billion in outlays. Several activities within this function are funded by offsetting collections that exceed the spending level.
- The resolution assumes the President's requested increases for: conducting the decennial census; strengthening the Securities and Exchange Commission; and implementing the Department of Commerce homeland security investments.
- The resolution accepts the President's proposal to eliminate the Advanced Technology Program. The resolution supports the President's rationale that the private investors are in a better position than the federal government to decide which research efforts should be funded.
- The resolution assumes the President's proposal to terminate tariff payments (collected under anti-dumping or countervailing duty orders) to affected industries. Since 2001, the tariffs have become mandatory payments, which the World Trade Organization deemed a violation of international trade agreements. The assumption will save \$1.45 billion in 2005 budget authority.

#### **Transportation (Function 400)**

- For transportation in 2005, S. Con. Res. 95 assumes \$23.8 billion in discretionary budget authority and \$66.2 billion in outlays. This is an increase of \$0.1 billion in budget authority and \$2.3 billion in outlays from the 2004 level.
- The resolution assumes the full homeland security activities request within this function, which provides a 13.2-percent increase over the 2004 level.
- The Senate-passed surface transportation bill for highways and transit (SAFETEA, S. 1072) would increase the deficit by spending \$29 billion (over the next six years) more than the highway trust fund revenues would collect under current law. The Administration has issued a veto threat in response to this bill. Given this threat, the resolution assumes the President's request for surface transportation contract authority (with related outlays on the discretionary side of the budget) for the next five years.
- The President's proposal for the transportation reauthorization bill is \$256 billion for FY 2004 through FY 2009. This is a 17-percent increase over the levels enacted in the previous authorization bill (TEA-21), which was \$218 billion for 1998 through 2003. In contrast, S. 1072 totals at least \$318 billion (including discretionary budget authority for transit), which is a 46-percent increase over TEA-21 and is 24 percent more than the President's request.

## **Community and Regional Development (Function 450)**

- This function includes funding for community and regional development and disaster relief. The function includes the Appalachian Regional Commission (ARC), the Federal Emergency Management Agency (FEMA), the Economic Development Administration (EDA) within the Commerce Department, and portions of the Department of Housing and Urban Development (most notably the Community Development Block Grant program), and the Bureau of Indian Affairs.
- For this function in 2005, S. Con. Res. 95 assumes \$13.2 billion in discretionary budget authority and \$15.2 billion in outlays. This is a decrease of \$2.4 billion in budget authority and \$1 billion in outlays from the 2004 level.
- Within the Office of Domestic Preparedness, the resolution assumes the President's full request for first responders with \$3.6 billion. This figure assumes \$500 million for assistance to firefighters and \$500 million for state and local law enforcement antiterrorism activities.<sup>7</sup>
- The resolution assumes \$3 billion for FY 2005 disaster relief programs, which is an increase of \$384 million (+21.7 percent) over the 2004 level. Included in this figure is \$2.2 billion in new budget authority. This level is consistent with the average cost of (non-terrorist) disaster events over the past five years.
- The resolution assumes \$169 million for the pre-disaster mitigation grant program, which is equal to the 2004 level.
- The resolution assumes a savings proposal that would deny federal flood insurance for certain repeatedly flooded properties.

## **Education (Function 500)**

- For this function in 2005, S. Con. Res. 95 assumes \$81.1 billion in discretionary budget authority and \$77.2 billion in outlays. This is an increase of \$3.1 billion (+3.9 percent) in budget authority and \$200 million in outlays over the 2004 level.<sup>8</sup>

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<sup>7</sup>Since 2001, Congress has appropriated close to \$20 billion for state and local first responder programs inside and outside the Department of Homeland Security. However, Chairman Nickles has expressed concerns regarding the reported misuse of such funds by states and localities, and he supports policies that ensure these funds are properly spent.

<sup>8</sup>See Reserve Fund section of this paper for a provision that facilitates consideration of the Higher Education Reauthorization (p. 10-11).

- The resolution assumes nearly \$500 billion for elementary and secondary education, a figure **which exceeds our national defense funding**.
- The resolution assumes a \$1-billion increase for Part B Grants to States for individuals with disabilities for each of the next two years. Part B Grant funding in 2005 assumes \$11.1 billion, which is a \$4.7 billion (+75 percent) increase over the 2001 level.
- The resolution assumes \$13.3 billion in 2005 for Title I grants to Local Education Agencies, (which form the largest component of the No Child Left Behind Act). This is a \$1-billion increase (+8.1 percent) over the 2004 level. The increase will fund services to disadvantaged students and improvements to low-performing schools.
- The resolution assumes the President's \$12.8 billion request for Pell Grant, which will allow the maximum award of \$4,050 to be fully funded. This is an increase of \$0.8 billion over the 2004 level.
- The resolution does not include any of the President's proposed program terminations.

#### **Health (Function 550)**

- For this function in 2005, S. Con. Res. 95 assumes \$53.4 billion in discretionary budget authority and \$48.7 billion in outlays. This is an increase of \$1.6 billion in budget authority and a decrease of \$0.6 billion in outlays from the 2004 level.
- The resolution assumes \$28.7 billion for National Institutes of Health (NIH) funding, which is an increase over 2004. The resolution also assumes a \$1.7 billion (+7.4 percent) increase for NIH biodefense preparedness over the 2004 level.<sup>9</sup>
- The resolution assumes two one-year changes in Medicaid to offset 2005 discretionary spending. The first change assumes a reduction in the Federal Medical Assistance Percentage (FMAP) from 90 percent to 75 percent. The second change assumes a reduction in federal reimbursement for the administrative costs to Medicaid, so they more accurately reflect the portion assumed in the Temporary Assistance to Needy Families (TANF) block grant.
- As mentioned in Function 350, the resolution assumes \$35 million to increase USDA food safety and inspections, which will help detect BSE and bioterrorism.

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<sup>9</sup>The goal of doubling the funding for NIH from \$13.7 billion in 1998 to \$27.1 billion in 2003 was accomplished.



### **Medicare (Function 570)**

- For Medicare in 2005, S. Con. Res. 95 assumes \$3.7 billion in discretionary budget authority and \$3.7 billion in outlays. This a decrease of \$0.2 billion in budget authority and \$0.1 billion in outlays from the 2004 level.
- The resolution assumes no mandatory changes in Medicare.

### **Income Security (Function 600)**

- For this function in 2005, S. Con. Res. 95 assumes \$46.4 billion in discretionary budget authority and \$51.4 billion in outlays. This is an increase of \$1.8 billion in budget authority and \$1.7 billion in outlays over the 2004 level.
- The resolution assumes the President's \$4.8 billion request for the Special Supplemental Nutrition Program for Women, Infants and Children, which is a \$175 million (+3.8 percent) increase over the 2004 level.
- The resolution assumes the President's \$2-billion request for the Low-Income Home Energy Assistance Program, which is a \$112-million increase (+6 percent) over the 2004 level.
- The resolution assumes the President's \$2.1 billion request for the Child Care Development Block Grant, which is a \$13 million increase over the 2004 level.
- The resolution assumes budget authority and outlays necessary to renew all utilized section 8 housing contracts.
- The resolution acknowledges that TANF will need to be reauthorized this year, and that it will be paid for by spending cuts to avoid increasing the deficit.
- The resolution assumes the President's \$28.3 billion request for the Food Stamp Program, which is a \$36-million increase over the 2004 level.
- The resolution assumes \$18 billion in additional outlays over five years to aid the President's proposal to extend the \$1,000 child credit and marriage penalty relief.
- The resolution assumes savings from Earned Income Credit (EIC) reforms. With respect to the EIC, the Finance Committee has been instructed to reduce outlays over five years.

### **Social Security (Function 650)**

- For the Social Security Administration in 2005, S. Con. Res. 95 assumes \$4.2 billion in discretionary budget authority and \$4.3 billion in outlays. This is an increase of 100 million (+2.8 percent) over the 2004 level.
- The resolution assumes the President's proposal to close a loophole, which currently allows former state and local employees to receive their public pension and Social Security benefits despite never having paid Social Security taxes.

### **Veterans' Benefits and Services (Function 700)**

- For veterans' benefits and services in 2005, S. Con. Res. 95 assumes \$30.5 billion in discretionary budget authority and \$29.6 billion in outlays. This is an increase of \$1.3 billion in budget authority (+4.4 percent) and \$1.6 billion (+5.5 percent) over the 2004 level.
- The resolution assumes \$29.1 billion for VA medical programs.<sup>10</sup> This figure assumes \$27.1 billion in budget authority and \$2 billion in offsetting collections from the Medical Care Collections Fund, which is a \$1.4 billion (+5 percent) increase over the 2004 level.
- The resolution does not assume the President's proposal to establish a new \$250 fee for priority level 7 and 8 veterans, nor does it assume an increase in prescription drug co-payments for those veterans.
- The resolution assumes \$101 million in 2005 for medical and prosthetic research.
- The resolution assumes a 1.3-percent cost of living adjustment (COLA) for 2005 compensation benefits. After this COLA adjustment, the resolution assumes \$39.8 billion in mandatory spending.

### **Administration of Justice (Function 750)**

- For federal law enforcement and judicial activities, S. Con. Res. 95 assumes \$36.9 billion in discretionary budget authority and \$36.9 billion in outlays. This is a decrease of \$0.2 billion in budget authority and an increase of \$1.4 billion in outlays from 2004 level.
- The resolution assumes the President's \$4.6 billion request for the Federal Bureau of Investigation (FBI), which is an increase of \$519 million (+12.8 percent) over the 2004

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<sup>10</sup>Amazingly, **VA medical care spending has increased 100 percent since 1993**, and 42 percent since 2001.

level.<sup>11</sup> The increased funding is to help aid the FBI's primary mission of preventing further terrorist attacks in America.

- The resolution includes the President's request to consolidate repetitive Department of Justice grant programs. Programs from the State and Local Law Enforcement Assistance account, the Juvenile Justice account, and the Community Oriented Policing Services are now combined under Justice Assistance in this resolution.
- The resolution assumes \$868 million for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, which is a \$41 million (+5 percent) increase over the 2004 level.
- The resolution assumes \$4.6 billion for salaries and expenses of the Bureau of Customs and Border Protection, which is a \$207 million (+4.7 percent) increase over the 2004 level.
- The resolution assumes the extension of two Customs User Fees, which are projected to bring in the following revenues: \$784 million in 2005, \$7.6 billion over 5 years, and \$18.6 billion over 10 years.

#### **General Government (Function 800)**

- For general government programs, S. Con. Res. 95 assumes \$15.6 billion in discretionary budget authority and \$15.7 billion in outlays.
- The resolution assumes that \$1.4 billion in election reform program funding from last year is not continued.<sup>12</sup> The resolution, however, does assume \$40 million for the Election Assistance Commission.
- A significant drop of \$5 billion in mandatory spending from 2004 to 2005 will occur because state assistance funding from the Jobs and Growth Tax Relief and Reconciliation Act of 2003 were one-time-only grants.

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<sup>11</sup>The overall assumed FBI budget, including the defense function, is \$5.1 billion.

<sup>12</sup>To date, total appropriations for election reform are \$3 billion. However, the disbursement of these funds have been held up by the delayed formation of the Election assistance Commission, which is responsible for oversight and distribution of federal grants to states.

## **Undistributed Offsetting Receipts (Function 950)**

- S. Con. Res. 95 assumes the President's request to extend the authority of the Federal Communications Commission to auction spectrum, authority which would otherwise expire at the end of 2007.

## **Reserve Funds**

In general, a reserve fund permits the Chairman of the Committee on the Budget to increase the section 302 allocation and other appropriate levels set out in this resolution (including, in some cases, the discretionary spending limits) once certain conditions have been met. The authority to make these adjustments is solely within the discretion of the Chairman and may be made when the committee of jurisdiction reports a measure which satisfies all the conditions set out in the reserve fund.

### **Reserve Fund for health insurance for the uninsured**

- As approved by the Budget Committee, S. Con. Res. 95 provides a deficit-neutral fund for the period of FY 2005 through FY 2009 for legislation that provides health insurance for the uninsured. The adjustment may be made only if the Committee on Finance or the Committee on Health, Education, Labor, and Pensions reports a bill that provides health insurance for the uninsured – which may include a measure providing for tax deductions for the purchase of health insurance – or that increases access to health insurance through lowering costs.

### **Reserve Fund for Higher Education**

- As approved by the Budget Committee, S. Con. Res. 95 provides an additional \$1 billion for fiscal year 2005 and \$5 billion for FY 2005 through FY 2009 for reauthorization of the Higher Education Act of 1965. Also, an additional \$3.7 billion in FY 2005 budget authority is made available to close a shortfall in the federal Pell Grant account.

### **Reserve Fund for Energy Legislation**

- As approved by the Budget Committee, S. Con. Res. 95 provides resources to facilitate the consideration of S. 2095, the Energy Policy Act, or a similar measure. The new FY 2005 budget authority shall not exceed \$261 million, and related outlays are not to exceed \$221 million. For FY 2005 through FY 2009, new budget authority and outlays shall not exceed \$1.5 billion, and revenue reductions shall not exceed \$1.8 billion in FY 2005, and \$15.1 billion for FY 2005 through FY 2009. These revenue reductions are assumed in the resolution.

### **Adjustment for Surface Transportation**

- As approved by the Budget Committee, S. Con. Res 95 provides a mechanism (similar to the FY 2004 Budget Resolution) to make additional contract authority and outlay allocations available to the committees with jurisdiction over the reauthorization and appropriations for surface transportation programs. This mechanism is available if the reauthorization makes available new net resources for the highway trust fund that offset the resulting outlays – without increasing the deficit.

### **Adjustment for Supplemental Appropriations for Activities in Afghanistan and Iraq**

- As approved by the Budget Committee, S. Con. Res. 95 provides a mechanism that makes resources available to the Appropriations Committee and requires that the President transmit a budget request for military activities in Iraq and Afghanistan that does not exceed \$30 billion in new FY 2005 budget authority.

### **Adjustment for Emergency Fire Suppression Activities**

- As approved by the Budget Committee, S. Con. Res. 95 makes up to \$500 million per year in additional funding available to the Appropriations Committee for supplemental appropriations for fire suppression activities from FY 2004 through FY 2006. These funds are provided on three conditions: 1) the regular appropriations bill has been enacted; 2) the enacted amount is not less than the 10-year average for those accounts; and 3) the severity of the fire season demands timely, additional funding.

## **Budget Enforcement Provisions**

### **Section 401: Restriction on Advance Appropriations in the Senate**

- As approved by the Budget Committee, S. Con. Res. 95, like last year's budget resolution, limits the use of advance appropriations. This restriction caps advance appropriations for FY 2005 and FY 2006 at \$23.158 billion. Furthermore, this restriction only permits advance appropriations in four appropriations bills: Interior, Labor-HHS, Transportation-Treasury, and Veterans- HUD.

### **Section 402: Emergency Legislation**

- As approved by the Budget Committee, S. Con. Res. 95 provides for the use of emergency appropriations when the President designates the spending as an emergency requirement and Congress agrees to designate the spending as an emergency. Such spending is an emergency if it is: 1) necessary, essential, or vital; 2) sudden, quickly coming into being, and not building over time; 3) an urgent, pressing, and compelling

need requiring immediate action; 4) unforeseen, unpredictable, and unanticipated; and 5) not permanent. Under emergency spending, the Senate's pay-as-you-go scorecard is held harmless with respect to associated costs.

### **Section 403: Discretionary spending limits in the Senate**

- As approved by the Budget Committee, S. Con. Res. 95 sets out congressional discretionary spending limits with respect to both budget authority and outlays for the first two years covered by the budget resolution. The discretionary spending caps are as follows:

#### **FY 2005:**

- \$812.773 billion in new budget authority;
- \$818.285 billion in discretionary outlays;
- \$33.393 billion in outlays for the highway category;
- \$1.488 billion in new budget authority for the transit category; and
- \$6.726 billion in outlays for the transit category

Total budget authority: \$814.261

Total Outlays: \$858.404

#### **FY 2006:**

- \$852.257 billion in new budget authority; and
  - \$884.266 billion in discretionary outlays
- \* Resolution sets out only one unified category for 2006.

### **Additional Budget Process and Enforcement Items**

- The resolution states that a number of provision from previous budget resolutions remain in effect, including:

### **Section 503: Extension of Supermajority Enforcement**

- As approved by the Budget Committee, S. Con. Res. 95 extends the 60-vote requirement for waivers and appeals with respect to those Budget Act points of order for which this requirement expired on September 30, 2002 (and was temporarily extended through April 15, 2003) for five years.

### **Section 505: Senate's Pay-As-You-Go Point of Order**

- As approved by the Budget Committee, S. Con. Res. 95 revises and extends the Senate's pay-as-you-go point of order. The original pay-as-you-go point of order first appeared in the FY 1994 budget resolution. Its most recent version expired in its entirety on September 30, 2002. The point of order was revised and extended in S. Res. 304 through

April 15, 2003. S. Res. 304 included a new provision of the pay-as-you-go rule, making the rule applicable to mandatory spending in appropriations bills in order to prevent the exploitation of the fact that there were no limits on discretionary spending for FY 2003 due to the expiration of the discretionary spending limits and the lack of an FY 2003 budget resolution. The pay-as-you-go point of order included in S. Con. Res. 95 resembles the previous versions of the rule with one change: it will apply on a post-budget-resolution policy basis. To accomplish this, a scorecard will be maintained by the chairman of the Committee on the Budget, which will set out the total level of change to the deficit assumed by the most recently adopted budget resolution. Subsequent legislation will be measured against these balances.

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## BACKGROUND

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### General

As Congress' blueprint for federal spending, the budget resolution sets binding limits on discretionary and mandatory spending levels and binding floors for revenue collections. For discretionary spending, the budget resolution allocates overall spending levels to the House and Senate Appropriations Committees through its 302(a) allocations.<sup>13</sup>

Enforcement of the budget resolution's provisions are affected through both internal Senate rules as well as statutory limitations. For discretionary spending, the spending levels adopted in the resolution are enforced through 60-vote Budget Act points of order.

The budget resolution also directs authorizing committees to make changes in mandatory spending programs or revenues through reconciliation instructions. In past resolutions, instructions have been included to amend revenue policy, Medicare, Medicaid, agriculture, and other programs.

The reconciliation process is enforced through numerous provisions at both the committee and floor level. Committees failing to adopt legislation meeting the resolution's instructions face the possibility of having the Budget Committee report out the appropriate legislation instead. On the floor, reconciliation bills enjoy protected status, including limited debate on the bill and individual amendments and special points of order against amendments that increase the deficit, amend the Social Security Act, and others. [For a full description of budget and reconciliation rules, see Budget Committee Print 105-67.]

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<sup>13</sup>The Appropriations Committee then divides this allocation among its 13 subcommittees through 302 (b) allocations.

## **Procedures**

Under the Budget Act of 1974, as amended, a budget resolution is a privileged piece of legislation, as outlined below. It is not subject to filibuster and debate time is limited to 50 hours, equally divided. However, this does not mean that Republicans have 25 hours for debate and the offering of amendments. As time is used on debate or amendments, remaining time is equally divided as debate proceeds. In addition, votes do not count against this time limit, nor do quorum calls just prior to votes. [For an explanation of Budget Act points of order, see Riddick's Senate Procedure, revised in 1992, pp. 615-618.]

Amendments to the budget resolution must be germane; otherwise, a point of order lies against the amendment, and 60 votes are required to waive the point of order. Germane amendments are those which:

- strike;
- increase or decrease numbers; or
- add language which restricts some power in the resolution.

Debate on first-degree amendments is limited to two hours, one hour to proponents and one hour to opponents. Debate on second-degree amendments is limited to one hour, 30 minutes to proponents and 30 minutes to opponents. All debate time on a first-degree amendment must be used or yielded back before a second-degree amendment can be offered.

No debate is allowed on a point of order made against any amendment under the Budget Act. Instead, a motion to waive the Budget Act must be made. Debate on any motion to waive a point of order is limited to one hour equally divided. Amendments can be offered at any time.

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## **POSSIBLE AMENDMENTS**

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### **Amendments Offered in the Budget Committee**

The following is a list of amendments offered during the Budget Committee markup. Listed are those adopted and those defeated. Similar amendments may be offered on the floor.

#### **Amendments Adopted**

**Grassley:** Over five years, it increases spending in function 300 (Natural Resources and Environment) by \$531 million; increases function 450 (Community, Regional Development) by \$24.5 million; and increases function 600 by \$665.5 million. The increases are paid for through a \$1.221-billion reduction in function 350 (Agriculture), (adopted 16-6).



**Stabenow:** Authorizes the Secretary of Health and Human Services to issue regulations allowing importation of FDA-approved prescription drugs, permitting pharmacists and other qualifying individuals to import prescription drugs into the United States from “certain Western countries” (adopted 14-8). [Note: this is the only amendment adopted during markup that significantly altered the allocations from the Chairman’s Mark.]

### **Other Amendments Passed by Unanimous Consent**

**Bunning:** Increases spending in function 500 (Education, Training, Employment) by \$33 million in 2005 budget authority and decreases spending in function 800 (General Government) by \$33 million in budget authority in 2005 for the purpose of providing an additional \$1000 in Pell Grants to students who complete a rigorous state scholar curriculum in high school. For 2006 through 2009, function 500 will be increased by \$32 million and function 800 will be decreased by \$32 million.

**Bunning:** Increases spending for Veterans’ medical and prosthetic research by increasing function 700 (Veterans Benefits, Services) by \$536 million in budget authority from 2005 to 2009 and decreases funding for function 800 (General Government) by \$536 million from 2005 to 2009. For 2005, a 25-percent increase over 2004 will be provided.

**Bunning:** *Sense of the Senate* on returning stability to payments under Medicare Physician Fee Schedule within the next two years.

**Feingold:** *Sense of the Senate* that federal departments and agencies should, to the maximum extent possible, adhere to the “Buy America Act.”

**Conrad:** *Sense of the Senate* that the Internal Revenue Service should be provided the resources necessary to increase enforcement activities that would be concentrated on efforts to reduce the tax gap substantially by 2009.

**Conrad/Nickles:** *Sense of the Senate* that overall discretionary levels in this resolution assume \$75 million in new budget authority in 2005 to fund new research and ongoing literature surveys in the Agency for Health Care Research and Quality.

### **Amendments Defeated**

**Bunning:** *Sense of the Senate* that all Government Sponsored Enterprises should be regulated by an appropriate federal agency (failed 4 to 14).

**Conrad:** *Sense of the Senate* that the budget resolution for 2005 should not increase deficits above the levels in CBO’s baseline (excluding the projections of the 2004 supplemental appropriations bill) (failed 10-12).

**Conrad:** Creates a point of order against any direct spending or revenue legislation that increases the deficit in any fiscal year until we have a balanced budget without counting the Social Security surplus (failed 10-12).

**Feingold/Corzine:** Increases the assumed amount of spending in Iraq and Afghanistan from \$30 billion in the resolution to \$50 billion, and offsets the increased cost by imposing increased taxes on individuals with income in excess of \$1 million (failed 10-12).

**Byrd:** Strikes the reconciliation instruction to the Finance Committee to reduce revenues by \$12.311 billion in 2005 and \$80.642 billion for the period of 2005 through 2009 (failed 10-12).

**Feingold:** Reinstates traditional pay-as-you-go requirement (failed 10-12).

**Murray/Nelson/Corzine/Sarbanes:** Increase spending in 2005 on port security grants by \$454 million with offsets assumed through closing tax loopholes and reducing tax fraud (failed 10-12).

**Nelson:** Increases spending for function 700 (Veterans Benefits, Services) by \$1.8 billion with offsets assumed through closing tax loopholes (failed 10-12).

**Murray:** Increases spending for function 500 (Education, Training, Employment) by \$8.6 billion in 2005 budget authority and offsets the increased cost by imposing increased taxes on individuals with income in excess of \$1 million (failed 10-12).

**Feingold/Stabenow:** Repeals the Medical Advantage Regional Plan Stabilization Fund (failed 10-12).

**Feingold/Wyden/Stabenow:** *Sense of the Senate* regarding the authority of the Secretary of Health and Human Services to negotiate drug prices under the Medicare program.

**Stabenow:** Increases spending in function 370 (Commerce, Housing Credit) by \$375 million and offsets the increased cost by imposing increased taxes on individuals with income in excess of \$1 million (failed 10-12).

**Sarbanes:** Increases spending in function 450 (Community, Regional Development) by \$400 million in 2005 budget authority, and offsets the increased cost by imposing increased taxes on individuals with income in excess of \$1 million (failed 10-12).

**Murray:** Increases spending in function 700 (Veterans Benefits, Services) by \$400 million if 2005 budget authority with offsets assumed through closing tax loopholes (failed 10-12).

**Corzine:** Creates a point of order against any legislation that reduces Social Security benefits relative to levels established under current law until Congress has repealed any reduction in individual income tax rates for individuals with income in excess of \$1 million (failed 10-12).

**Sarbanes:** Creates a special rule that would exempt increased spending for extended unemployment insurance benefits from enforcement mechanisms in the Congressional Budget Act of 1974 and any budget resolution (failed 10-12).

**Corzine:** Creates a reserve fund to encourage employers to maintain existing prescription drug benefits for retirees and offsets any costs to the Treasury by imposing increased taxes on individuals with income in excess of \$1 million (failed 10-12).

**Nelson:** *Sense of the Senate* that beach nourishment and coastal infrastructure projects are **in the** federal interest and the Senate recognizes the need to restore eroded beaches (failed 9-11).

Amendments similar to those offered during the committee markup are expected on the floor. Once the RPC obtains the filed amendments, we will disseminate descriptions and talking points via e-mail as quickly as possible.